

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
EASTERN DIVISION**

THOMAS GADDIS,)	
)	
Petitioner,)	
)	
v.)	Case No. 1:19-cv-01872-ACA-JEO
)	
SHERIFF JIMMY KILGORE,)	
)	
Respondent.)	

MEMORANDUM OPINION

On March 4, 2020, the magistrate judge entered a report recommending that the court dismiss Petitioner Thomas Gaddis' 28 U.S.C. § 2241 petition for writ of habeas corpus without prejudice. (Doc. 20). Mr. Gaddis objected to the report and recommendation on various grounds. (Docs. 21, 22). The court **OVERRULES** his objections.


Mr. Gaddis' primary objection is that citizens of the United States should not be required to exhaust available state remedies to proceed under § 2241 because, in *Rasul v. Bush*, 542 U.S. 466 (2004), the Supreme Court found that § 2241 gave federal district courts jurisdiction to consider challenges to the legality of detention by Guantanamo Bay detainees. *Id.* at 483. (Doc. 22 at 2, 4–6). But the Court's decision in *Rasul* did not address the exhaustion requirement. *See generally Rasul*, 542 U.S. 466. And this court is bound by the Eleventh Circuit's longstanding

precedent that § 2241 petitioners must exhaust their remedies in state court before proceeding under § 2241. *See Skinner v. Wiley*, 355 F.3d 1293, 1295 (11th Cir. 2004), *abrogated on other grounds by Santiago-Lugo v. Warden*, 785 F.3d 467 (11th Cir. 2015). Accordingly, the court **OVERRULES** this objection.

Mr. Gaddis also objects to the timing of the magistrate judge's report and recommendation. (Doc. 22 at 14). He points out that on February 20, 2020, the magistrate judge gave him twenty days to respond with any evidence or arguments he wished to present in support of his petition, but the judge issued the report and recommendation thirteen days later, before the time for him to respond had expired. (*Id.*). However, Mr. Gaddis filed a response on February 28, 2020, within the time allowed. (Doc. 19). Accordingly, the court **OVERRULES** this objection.

Mr. Gaddis makes various other objections. (*See* Docs. 21, 22). The court has reviewed those objections and **OVERRULES** them without further discussion. The court **ADOPTS** the report of the magistrate judge and **ACCEPTS** his recommendation. Accordingly, the court **WILL DISMISS** Mr. Gaddis' § 2241 petition **WITHOUT PREJUDICE**.

DONE and **ORDERED** this April 10, 2020.



ANNEMARIE CARNEY AXON
UNITED STATES DISTRICT JUDGE